

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

SHAHAB AFNANI,

v.

**NANCY A. BERRYHILL,
Defendant.**

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Case No. 1:18cv00554

ORDER

On May 3, 2019, United States Magistrate Judge Ivan D. Davis entered a Report and Recommendation ("Report") in this social security case regarding waiver of an overpayment of Social Security disability insurance benefits ("DIB"), recommending that plaintiff's motion for summary judgment be denied in part, that the decision of the Commissioner be vacated, and that the case be remanded for further proceedings. Specifically, Judge Davis found (i) that the Administrative Law Judge ("ALJ") did not err when he found that plaintiff had not accurately and completely reported that he had no income; (ii) that the ALJ's decision omitted consideration of plaintiff's age, intelligence, and any physical, mental, educational, or linguistic limitations; and (iii) that the ALJ failed to make a credibility determination when deciding that plaintiff was at fault. No objections to the Report were filed by either party.¹

The Court **ADOPTS** the Report and Recommendation (Doc. 25) in **part**.

¹ Both parties in this matter were represented by counsel.

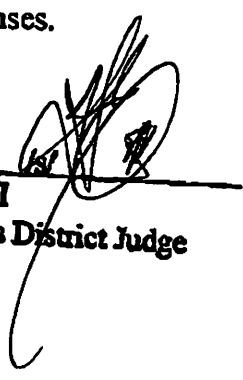
The Commissioner's decision is **VACATED** because the ALJ and the Commissioner failed to discuss the factors outlined in 20 C.F.R. § 404.507 or make credibility determinations that warrant a finding of fault.

This case is **REMANDED** to the Social Security Administration for further proceedings consistent with the Report and this Order.

It is hereby **ORDERED** that plaintiff's motion for summary judgment (Doc. 17) and defendant's motion for summary judgment (Doc. 22) are **DENIED** without prejudice.

The Clerk of the Court is further directed to provide a copy of this Order to all counsel of record and to place this matter among the ended causes.

Alexandria, Virginia
May 22, 2019



T. S. Ellis, III
United States District Judge